

Before the
FEDERAL ELECTION COMMISSION

2004 APR 26 A 11: 32

In the matter of

Oregon State Senator Jackie Winters, and

RE: MUR 5411

Jackie Winters for Congress 2004, Inc

Respondents

SENSITIVE

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 APR 22 P 1: 38

SUPPLEMENT TO COMPLAINT

On February 12, 2004 ZUPANCIC FOR CONGRESS 2004, INC (16869 SW 65th Ave #120, Lake Oswego, Oregon 97035), (hereinafter "Complainant") a corporation organized and existing under the Oregon Revised Statutes, filed a Complaint (hereinafter "Complaint") against Respondents for violating provisions of the Federal Election Campaign Act of 1971, as amended

Complainant received a confirmation letter from the Federal Election Commission (hereinafter "FEC") acknowledging receipt of the Complaint. The matter was assigned the following number MUR 5411. For purposes of this Supplement, the allegations in the original Complaint shall be referred to as Violation Number 1. The arguments and facts in this Supplement shall be referred to as Violation Number 2. All of the events relating to Violation Number 2 post-date the Complaint and the facts relating to Violation Number 1.

RESPONDENTS

SENATOR JACKIE WINTERS (herein "Winters"), 900 Court St NE S-212, Salem Oregon 97301, is a state Senator in the Oregon State Senate.

JACKIE WINTERS FOR CONGRESS 2004, INC, P O Box 4760 Salem OR 97302, (hereinafter "the Committee"), is a political committee established to support the Candidacy of Jackie Winters in Oregon's Fifth Congressional District.

FACTS: VIOLATION NO. 2

The facts supporting this Supplement are to be found in documents available to the public. On April 14, 2004, Respondents sent an e-mail announcing a letter mailed on behalf of Respondent's campaign. The introduction to the email states, "[t]he following letter was sent to the 5th Congressional District today. It speaks for itself Jackie" (Exhibit "A"). Additionally, on the

same day, April 14, 2004, a letter constituting a public communication (hereinafter "Atkinson letter") with the exact same text contained in Respondent's email was received by voters across the congressional district as a bulk mail letter, apparently sent, as the email stated, to citizens of Oregon's Fifth Congressional District (Exhibit "B")

APPARENT VIOLATION NO. 2

The analysis of Violation Number 2 and the resulting conclusion are clear Respondents violated Federal Election Commission Regulation 11 CFR 110.11 because the publication and distribution of the Atkinson letter failed to provide the necessary disclaimer as required by the FEC

The FEC's regulations entitled "Special Notices on Political Ads and Solicitations" states, "A disclaimer must appear on any 'electioneering communication' *and* on any public communication by any person that expressly advocates the election or defeat of a clearly identified candidate or solicits funds in connection with a federal election" Emphasis added. Additionally, "public communication" as defined by the FEC means, "[m]ass mailing (defined as more than 500 pieces of mail matter of an identical or substantially similar nature within 30-day period)" 11 CFR 100.27.

Additionally, even if the message was not authorized by or financed by Respondent's committee, the federal election rules still apply Specifically, the FEC regulations state

On a public communication that is not authorized by a candidate or his/her campaign committee, the disclaimer notice must identify who paid for the message, state that it was not authorized by any candidate or candidate's committee and list the permanent street address, telephone number or World Wide Web address of the person who paid for the communication 11 CFR 110.11(b)(3). Example "Paid for by the QRS Committee (www.QRScommittee.org) and not authorized by any candidate or candidate's committee"

Finally, there are specific rules governing the disclaimer The rules state

On printed materials, the disclaimer notice must appear within a printed box set apart from the other contents in the communication The print must be of a sufficient type-size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement 11 CFR 110.11(c)(2)(i), (ii) and (iii)

CONCLUSION

Complainant believes that the essential facts supporting the allegations contained in this Supplement to the original Complaint are indisputable. The Atkinson letter was a public communication that advocated the election of a clearly identified candidate and was disseminated throughout the Fifth Congressional District without including the proper disclaimer as required by federal election law. Respondent Winters and the Committee are therefore in violation of federal law.

Respectfully Submitted on Behalf of Complainant

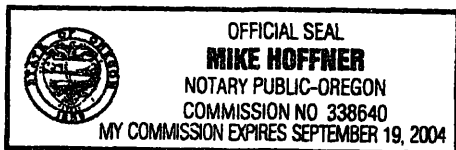
Q. T. Lyon

Date 16 day of April, 2004

Notary

STATE OF OREGON)
)ss
County of MULTNOMAH)

This instrument was subscribed and sworn to before me on this 16TH day of APRIL, 2004, by Devon Lyon, known or proven to me to be the person whose signature appears above.



Mike Hoffner
NOTARY PUBLIC FOR OREGON

My Commission Expires 9-19-04

- End of Supplement to Compliant MUR 5411 -

25.04.109.1233

EXHIBIT A

From: [REDACTED]@[REDACTED].com]
 Sent: Wednesday, April 14, 2004 1:22 PM
 To: [REDACTED]
 Subject: Winters Email -FYI

Contribute
Online

Join the
Team



The following letter was sent to the 5th Congressional District today. It speaks for itself. Jackie

>From the desk of
 Perry A. Atkinson
 Oregon Republican Party
 Chairman 1999-2003

Monday, April 12, 2004

Dear Fellow Republican,

It is rare that I get involved in a Republican Primary but when I learned that Senator Jackie Winters' opponent in the Fifth Congressional District race, downtown Portland Lawyer Jim Zupancic, had contributed money to Democrat Attorney General Hardy Meyers, it bothered me deeply. This is the same Hardy Meyers that recently refused to enforce the state law banning gay marriage in Multnomah County.

While I was trying to lead the Party, at a time when then candidate George W Bush lost Oregon by just 6,765 votes, and we were trying to raise money to help Kevin Mannix beat Democrat Attorney General Hardy Meyers, Republican candidate Jim Zupancic was contributing to Democrat Meyers. Not attending a \$10 or \$20 dollar event, but a \$500 contribution. Five-Hundred dollars at crunch time .. September, right before the election, when it really makes a difference. While you and your fellow Republicans were giving of their time, their money, late nights on the phones getting headaches and neck aches, doorbelling with tired feet, giving endlessly, unselfishly, for a Republican victory, Jim Zupancic was funding a key Democrat that would prove instrumental not on just the issue of gay marriage but also with the redistricting battle which cost Republicans control of the Senate in 2002.

And now, I find out this is not the first time he has helped the Democrats. He actually helped a Democrat in a State House race when I was Vice-Chair of the Party. Jim Zupancic's actions had real consequences Jim Zupancic's Democrat won, but luckily we held the House.

In 2000, as Chair of the Party we asked then State Representative Jackie Winters to run for Congress and return the 5th Congressional District to Republican hands. But the timing was just not right. Last year, President Bush asked her to run. Now, I can tell you that when you are asked by the President of the United States to help him, it carries a lot of weight in my book. I am glad she decided to say yes because she is a great candidate and will be a member of Congress that we can look up to and rely on.

In a day and age when our youth need a hero to look up to, Senator Jackie Winters is one person right here in Oregon whose example they can follow. Ordinary people doing extraordinary things, that is Jackie Winters. Overcoming racial prejudice, going from not being allowed to sit in a restaurant, to owning 3 restaurants and 3 franchises. Getting fed up with the red tape of government and its far reaching regulations and deciding to do something about it. Becoming the first Republican African American Woman elected to the Oregon State Legislature.

Now Jackie Winters may very well be, with our help, the first African American Republican Woman ever elected to the US House of Representatives in the history of these great United States. She is truly an American success story.

But Jim Zupancic has sent out nearly 70 news releases attacking Senator Winters, yet he is not willing to tell you about his own tax and spend record. Well, I will.

Just 18 months ago, Jim Zupancic thought that we needed a "redesign of our tax system." Zupancic said he "would like to take a leadership role in providing the catalyst to bring business and labor together on this issue." What was the issue? A referral to the people that included a consumption tax. That is right, Jim Zupancic wanted a sales tax on the ballot. Well Mr. Zupancic, your Democrat friends like Hardy Meyers may want a sales tax, but the voters of Oregon have turned down a sales tax 9 times and we don't need your leadership in wasting the taxpayers dollars by putting it on the ballot again. No on the sales tax means exactly that.

But that is not the only tax increase Jim Zupancic has supported. He has supported a dozen big tax increases over the last ten years. The list includes a real estate transfer tax, a gas tax increase, increased vehicle and registration fees, he opposed putting the "kicker tax refund" in the constitution. He opposed Measure 88, the Legislative referral that would have increased the deduction of federal income taxes paid on Oregon state income tax returns. He opposed a constitutional spending limit. He opposed Ballot Measure 95, which would have implemented school accountability measures like pay for teachers tied to performance. Is it any wonder with his stances that he earned the endorsement of the powerful teacher's union. He was even endorsed by the Oregon School Boards Association and the only reason was his strong pro-tax position. And when he had the chance to support Vera Katz and the "Katz plan" now known as

CIM/CAM he took it and supported the plan

Less than 2 years ago, in his answers to the Coalition for School Funding Now questionnaire, as a candidate for State House District 38 Jim Zupancic said " I believe that public schools do need more money to be effective " Then he promised to fully fund it and "if necessary, increased taxes " Jim Zupancic is now running ads that say "raising taxes are never the answer." To his new ads, I say he should have thought about his position before he ran the old pro-tax ads in the Lake Oswego Review newspaper and filled out the Coalition for School Funding Now questionnaire His record over the past ten years is very clear to me

But Jim Zupancic's record is not just on taxes When we had the chance to reform PERS in 1994, he opposed it I can't begin to imagine what better financial shape the state would be in if it would have passed He opposed the judicial reform measures that would have reformed our judiciary system That would have reformed the same "justice system" that threw out property rights Measure 7, and the crime victims' rights measure which finally gave both crime victims and their families a legal voice against the criminal monsters like Scott Dean Harberts who shattered their lives

Just recently Jim Zupancic refused to return a questionnaire to the National Rifle Association. Now as many of you know, our party platform supports the right to keep and bare arms As President Reagan once said "I believe the Republican Party has a platform that is a banner of bold, unmistakable colors, with no pastel shades " The Second Amendment, or as the NRA puts it, "Our First Freedom" has ensured that this great republic stays free for over 227 years.

In the NRA's recent endorsement of Jackie Winters the NRA wrote "you have been a strong supporter of the Second Amendment and have demonstrated a dedication and commitment on this

But I think what the NRA wrote regarding Jim Zupancic's refusal to return the survey quite revealing They wrote, "We are extremely grateful that, unlike your opponent in the primary election, you took the time and effort to complete and return our survey Our association and its membership rely upon these questionnaires to help them evaluate candidates for public office to determine which ones are in fact Second Amendment supporters, and failure to respond is a clear indication of indifference, if not outright hostility, towards law-abiding gun owners and sportsmen " I think those are the harshest words I have seen written by the NRA about a candidate not returning their questionnaire

I believe that when a candidate refuses to return a survey they either do not agree with that group, or just do not want to take a stand We already have enough people in public office who refuse to take a stand

On the issue of life, Jackie Winters has been endorsed by Oregon Right to Life seven times, including this election to Congress

One thing I admire about Senator Winters is she is willing to take a stand Do

we agree on every issue, no. But she is willing to take a stand, yes. With her internal compass she can tell you exactly why she feels that way. Open, honest, tough but yet caring, willing to make a decision, yes means yes and no means no. Sounds a lot like President George W. Bush. And not surprisingly so, they have something in common, it is called character. In 2000 Candidate George W. Bush never abandoned his values and he was elected President. We trust in him because of his internal compass. The issues of today will be gone tomorrow. Tomorrow's issues are yet to come. That is why we choose our elected officials not just by judging if they feel the same way we do, but on their character. Can we trust in them to do what is right for the nation? Will they ensure our nation is in better shape for our children or will they act in their own self interest when they cross over the Potomac River? Jackie Winters has the character we need in Congress.

America has faced many challenges. President Reagan said that he considered himself as a "Steward" of the highest office of the land. We, as a nation, have called on "stewards" to serve their nation. We ask a lot of them. Preserve the Republic, hold tight our rights so they are not released to some foreign entity, protect our shores. Lead our nation through the easy and the tough times. Leadership is not easy. I know what mettle Jackie Winters is made of. She truly fits the Reagan definition when he said "A leader, once convinced [that] a particular course of action is the right one, must have the determination to stick with it and be undaunted when the going gets tough." That is Jackie Winters.

In just 200 days we have the opportunity to return the 5th Congressional District to Republican hands, but only if we have a solid candidate we can trust. Jackie Winters is that candidate. I ask you to join me in supporting Jackie Winters.

In the last few days of the Primary Election, Jackie needs all the help we can give her. Tell your friends, send an email asking them to vote for Jackie, log onto her website and make a contribution at www.jackiewinters.com, use the return envelope to make a contribution, endorse her, request or help with yard signs.

Together, we can help President Bush by sending Senator Jackie Winters to Congress. Please remember to Vote for Jackie on May 18th. Thank you.

Sincerely,
Perry A. Atkinson
Chairman,
Oregon Republican Party 1999-2003

EXHIBIT B

From the desk of
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Oregon Republican Party
Chairman 1999-2003

Monday, April 12, 2004

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In the NRA's recent endorsement of Jackie Winters the NRA wrote "you have been a strong supporter of the Second Amendment and have demonstrated a dedication and commitment on this important issue." **Jackie Winters earned an "A" rating from the NRA, Jim Zupancic refused to return the questionnaire. A stark contrast.**

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Thank you.

Sincerely,



Perry A Atkinson

Chairman,
Oregon Republican Party 1999-2003

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